IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 8329 of 2004
To
SPECIAL CIVIL APPLICATION No. 8332 of 2004

For Approval and Signature:

HONOURABLE MR.JUSTICE KSHITIJ R.VYAS

HONOURABLE MR.JUSTICE AKSHAY H.MEHTA

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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DALPATBHAI BADIYABHAI & 19 - Petitioner(s)

Versus

SPECIAL LAND ACQUISITION OFFICER & 2 - Respondent(s)

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Appearance :

MR KM SHETH for Petitioner(s) : 1 - 20.
MR SP HASURKAR A.G.P. for Respondent(s) : 1 - 2.
NOTICE SERVED for Respondent(s) : 1 - 2.
MR KM PATEL for Respondent(s) : 3,

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CORAM : HONOURABLE MR.JUSTICE KSHITIJ R.VYAS
and
HONOURABLE MR.JUSTICE AKSHAY H.MEHTA

Date : 08/02/2006

ORAL JUDGMENT

(Per : HONOURABLE MR.JUSTICE AKSHAY H.MEHTA)

1. In this group of four petitions a common grievance is made by the petitioners that as per the agreement entered into between the land owners and respondent no. 3 [GMDC] wherein it was decided that if there is crop standing in the respective fields of the land owners, compensation for the same would be payable, but now respondent no. 3 has backed out and it is not paying any compensation for the standing crop. It is the say of the petitioners that when the possession of the lands was taken, necessary Panchnamas were drawn and these documents clearly show that variety of crops were standing in the lands in question, for which respondent no. 3 is liable to pay the compensation. In the petitions it is prayed that they may be directed to pay adequate compensation for the same.

1.1. This contention of the petitioners is vehemently contested by the respondents and in particular respondent no. 3. Respondent no. 3 has disputed the very foundation of the claim of the petitioners by contending that when respondent no. 3 took the possession, there was no standing crop and, therefore, there is no liability on respondent no. 3 to pay compensation for the same. It is also their say that since there was a litigation already pending before this Court in connection with lands situated at village Amod, Taluka Jagadia, including the lands of the petitioners, the possession was not taken and they were allowed to cultivate the lands even after possession on paper was taken by the acquiring

agency, namely The Special Land Acquisition Officer. It is further contended by respondent no. 3 that there is also an agreement individually entered into with the petitioners which does not speak of any condition requiring respondent no. 3 to pay compensation for the standing crop.

2. In view of the aforesaid, it clearly appears to us that there are number of disputed questions of facts involved in these petitions ands we, while sitting under Article 226 of the Constitution of India, cannot adjudicate upon these disputed questions of facts and give decision on merits. On this count alone, the petitions deserve to be dismissed. However, it is stated by Mr. KM Sheth, learned advocate appearing for the petitioners in all the petitions that the petitioners be granted liberty to file civil suits before the appropriate Court. The petitioners can always do so if it is permissible in law. Permission from this Court is not required.

In view of the aforesaid, petitions are dismissed. Rule discharged with no order as to costs.

[Kshitij R Vyas, J.]

[Akshay H Mehta, J.]

* Pansala.